

**Remarks/Arguments**

**I. Status of the Claims:**

Claims 2–13, 77–79, 108–111, and 113–117 are pending in the application.

**II. Rejections Under 35 U.S.C. § 103(a):**

Claims 2-13, 77-79 and 108-117 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Short *et al.* (U.S. Patent Nos. 5,510,099 and 5,955,056) hereinafter “Short” in view of Bloom *et al.* (WO 00/78925) hereinafter “Bloom.” (Office Action, pages 3 and 6.) Applicant respectfully disagrees.

As noted by the Examiner, Short discloses an *E. coli* organism that is phage free and deficient in one or more restriction systems. However, Short discloses the use of *E. coli* K12 strain not the strain W recited in the present claims. For example see column 16, lines 26-31 of the ‘099 patent and column 16, lines 11-16 of the ‘056 patent. Further, Short does not disclose the growth rate of the SCS-8 *E. coli* strain compared to any other strain. Applicant however, has disclosed the growth rate of *E.coli* strain W cells compared to other *E. coli* strains. For example see Examples 16-18 in the specification. In particular Example 17, where growth of *E. coli* W and *E. coli* K12 is compared.

Bloom is asserted by the Examiner to disclose *E. coli* W strains lacking native plasmids (Office Action, page 5). However, as noted in the declaration of Frederic Bloom submitted June 18, 2009, *E. coli* W was known to contain phage, specifically Mu and Wphi phage. Bloom does not disclose removal of either of these phage in Examples 3 and 4 cited by the Examiner.

The Examiner further asserts that “the claim would have been obvious because the mutation techniques were recognized as part of the ordinary capabilities of one skilled in the art” (Office Action, page 6). The present claims are directed to compositions of matter. Whether a technique is known in the art is not relevant to the question of whether the composition resulting from the use of the technique is obvious.

In light of the above, Applicant submits that Short and Bloom, alone or in combination, fail to teach all of the combinations of features set forth in claims 2-13, 77-79, 108-111, and 113-117 and respectfully requests that the rejections under 35 USC §103(a) be removed.

### **CONCLUSION**

Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

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